

UNITED STATES COURTS
SOUTHERN DISTRICT OF TEXAS
FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

APR 05 2013

David J. Bradley, Clerk of Court

United States of America,)	
Respondent,)	
)	CRIMINAL NO. H-10-512-1
v.)	
)	Renewed Motion for Copies
Thor Alexander Morris,)	at Government Expense
Petitioner.)	(28 U.S.C. §753(f))
(Re: CA H-12-3086))	
_____)	

Petitioner hereby renews his 4/30/2012 Motion for Copies at Government Expense (D.E. 68). In such Motion Petitioner requested copies of: (1) his indictment (D.E. 19); (2) PreSentence Investigation Report (D.E. 33); (3) both addendums to his PSI (D.E. 35, 37); (4) transcripts for sentencing hearing held on 5/9/2011; (5) transcripts for both hearings held on 1/18/2011; and (6) Statement of Reasons (D.E. 40).

Standard of Review

An indigent defendant has both a statutory and Constitutional right to a free transcript under certain circumstances. See 28 U.S.C. §753(f); United States v. MacCollom, 426 U.S. 317, 48 L. Ed. 2d 666, 96 S. Ct. 2086 (1976). This right depends upon whether the defendant can establish that he is indigent, whether his habeas corpus action is frivolous, and whether the transcript is needed to decide the issue presented by the action. See MacCollom, 426 U.S. at 320-21.

Petitioner's Indigency

This Court has twice determined Petitioner to be indigent (See D.E. 3, 44, 47). Since the last time Petitioner filed a Financial Affidavit with this Court (D.E. 60) there has been no substantial change in Petitioner's financial status. Thus, Petitioner should be declared indigent for purposes of 28 U.S.C. §753(f).

Necessary to Decide a Pending Action

In the 11 months that the first Motion for Copies (D.E. 68) has been pending, the District Court summarily dismissed Petitioner's §2255 Petition. In response to that dismissal, Petitioner filed a Rule 59(e) Motion and an Application for Certificate of Appealability, both of which are still pending in this Court.

Petitioner will have to file more motions in either this Court or the Fifth Circuit, depending on how this Court rules on the 59(e) Motion and Application for COA. Regardless, the ability to cite verbatim the transcripts Petitioner so heavily relies on in his §2255 is absolutely essential to the success of the Petition. As it stands, Petitioner is wholly dependant on his personal recollection of the underlying criminal proceedings. Petitioner is not getting any younger, and his memory of the proceedings is certainly not becoming any clearer. Petitioner is rapidly approaching the point where his memory of the proceedings will consist of only vague generalities.

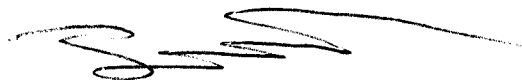
Frivolity of §2255

This Court has yet to rule on the frivolity of the Petition. For the sake of brevity, Petitioner directs this Court's attention to his Application for Certificate of Appealability, where he thoroughly argues the debatability and nonfrivolous nature of his Petition.

Conclusion

Fore the foregoing reasons, Petitioner requests that this Honorable Court grant Petitioner's Motion for Copies. Petitioner is indigent, has a nonfrivolous claim, and the transcripts are necessary to decide the pending proceedings.

I hereby declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge. Executed this 31st day of March, 2013.



Thor Alexander Morris
Reg. No. 33297-279
Federal Prison Camp
PO Box 52010
Bennettsville, SC 29512

CERTIFICATE OF SERVICE

Petitioner hereby certifies that the foregoing 'Renewed Motion for Copies at Government Expense' was sent to the below listed addresses by way of USPS Prepaid First Class Mail. Such Motion was submitted through the Prison Legal Mail System on 4/1/2013.

Clerk of Court
US District Court
515 Rusk Street, Room 5300
Houston, TX 77002-2600

United States Attorney Office
1000 Louisiana
Ste 2300
Houston, TX 77002
(713) 567-9574

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge. Executed 4/1/2013.



Thor Alexander Morris
Reg. No. 33297-279
Federal Prison Camp
PO Box 52010
Bennettsville, SC 29512-5220